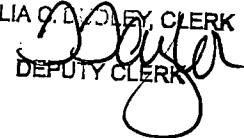


JUN 23 2016

JULIA C. DOWLEY, CLERK
BY: 
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 7:06CR00095
)	(CASE NO. 7:16CV81000)
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
)	
LAWRENCE MCCUTCHEON,)	By: Hon. Glen E. Conrad
)	Chief United States District Judge
Defendant.)	

Lawrence McCutcheon, a federal inmate proceeding pro se, filed this motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255. Pursuant to Standing order 2015-5 and the provisions of the Criminal Justice Act, 18 U.S.C. § 3006A(a)(1) and (c), the Office of the Federal Public Defender for the Western District of Virginia has been appointed to consult with defendant to determine whether defendant may qualify for federal habeas relief in light of Johnson v. United States, ___ U.S. ___, 135 S. Ct. 2551 (June 26, 2015). Upon review of the pro se § 2255 motion and court records, however, the court concludes that the current § 2255 motion must be summarily dismissed without prejudice as successive.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255(h). Court records indicate that McCutcheon previously filed § 2255 motions concerning this same conviction and sentence. See, e.g., United States v. McCutcheon, Case No. 7:08CV80021 (W.D. Va. November 13, 2008) (dismissing motion to dismiss § 2255 motion after evidentiary hearing), appeal dismissed, 353 F. App'x 812 (4th Cir. Dec. 2, 2009). As McCutcheon offers no indication that he has yet obtained certification from

the court of appeals to file a second or successive § 2255 motion, the court must dismiss his current action without prejudice. A separate order will be entered this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to defendant. Defendant is also advised that if he wishes to seek assistance concerning the appropriate legal remedy by which he may pursue any claim available to him under the Johnson decision, he may contact the Office of the Federal Public Defender, 210 1st Street Southwest #400, Roanoke, VA 24011.

ENTER: This 23rd day of June, 2016.



Chief United States District Judge